

REMARKS

I. Status of the Application

Claims 1-9 and 12-28 are pending. Claims 1, 2, 13, 17, 24, 25, and 26 have been amended. Claim 11 has been cancelled without prejudice or disclaimer of the subject matter within. Claims 27 and 28 are new.

II. Rejection Under 35 U.S.C. § 112

Claim 25 has been amended to address this rejection.

III. Rejection Under 35 U.S.C. § 102

A. The Murphy Reference

Claims 1-5, 7-10, 13-17, 19-21, and 24-26 have been rejected under 35 U.S.C. § 102(b) as allegedly anticipated by U.S. Patent 5,725,122 (“Murphy”).

Amended independent claim 1 requires that the cover have a rim with an inner wall with a lower edge. Amended claim 1 further requires that the cover further define a cavity with a recessed planar surface “at a depth that is not lower than the lower edge.” (See Fig. 3, for example). Independent claim 26 has been similarly amended.

Murphy discloses a container comprising a container body 20 and a cover 4. Two separate storage areas are provided, one defined by the container body 20 and another defined by a receptacle portion 12 of the cover 4. The cover includes a rim 30 having an inner wall 72. The receptacle portion 12 extends down into the container body 20, below a lower edge of an inner wall, as shown in Figs. 3 and 4, for example. Murphy shows a scraper 102 (misabeled in Fig. 5 as 110) placed in the second storage area. In the Background, Murphy discusses containers of paint, wallpaper paste, and joint compound, which are advantageously sold with equipment, such as paint brushes, cutters, tape, etc. (col. 1, lines 21-37). The equipment may be stored in the

receptacle portion of the cover 4 while the paint, etc. is stored in the container body. (See, for example, col. 1, lines 56-59 and col. 2, lines 4-10).

Murphy does not show or suggest providing a cover defining a cavity with a planar surface “at a depth recessed that is not lower than the lower edge” of a rim, as claimed. In Murphy, the receptacle portion 12 extends vertically below the lower edge of the rim to define a receptacle to receive objects.

Independent claim 13 requires that the cover have “a planar surface defining, in part, a cavity.” The planar surface is “at a depth within a height of the rim.” Murphy does not show or suggest such a configuration, either.

Independent claim 24 requires that the container contain articles. Murphy provides a container for paint, wallpaper paste, or joint compound. Neither Murphy nor the other cited references show or suggest teach the combination of a container, as claimed, containing articles.

Claims 1, 13, 24, and 26, and the claims dependent upon them, are not, therefore, anticipated by Murphy. Withdrawal of the rejection and reconsideration of the claims are respectfully requested.

B. The Hazard Reference

Claims 1-4, 7, 9-10, 13-16, 19, 21, and 24-26 have been rejected under 102(b) as allegedly being anticipated by U.S. Patent No. 314,839 (“Hazard”).

Hazard seeks to avoid damaging goods within cans during the soldering process used to attach covers to the cans. Hazard’s can cover comprises multiple caps. The cap “b” defines an opening e. The caps A and B cover the cap b and the opening e. The opening e in the cover is permanently sealed when the cover and metal caps A, B, and b are soldered together and to the can. (See page 1, lines 74-78, for example).

Hazard does not provide a lid to selectively open and close a container, as required by independent claims 1, 13, 24, and 26. Other claim limitations are not shown either. Claims 1, 13, 24, and 26, and the claims dependent upon them, are not, therefore, anticipated or rendered obvious by Hazard. Withdrawal of the rejection and reconsideration of the claims are respectfully requested.

C. The Richardson Reference

Claims 1, 7, 9 and 11-12 have been rejected under U.S.C. 102(b) as allegedly being anticipated by United States Patent No. 4,759,478 ("Richardson").

Richardson discloses a container comprising a "top dispensing closure [30?] [that] is suitably sealed or attached to the open end of the container and is adapted to dispense granular or other pourable material from a dispensing opening in the container top closure." (Col. 1, lines 58-60). The Richardson assembly 30 includes "a right-hand (as viewed in FIGS. 1 and 3) wall portion 34 extending upwardly from panel 12. Wall 34 upwardly terminates in horizontally extending portion 36 which carries a hinged or pivoted closure flap, the flap being connected to portion 36 by means of hinge indentation 38." (Col. 1, lines 60-66). Granular materials stored within the container are poured through the raised assembly 30.

Claim 1 has also been amended to require that the lid be "coplanar with the recessed planar surface" of the cover cavity "when the lid is in a closed position." In Richardson, in contrast, the lid extends above the surface of the cavity. One purpose of the configuration of claim 1 is to be able to receive a second cover in the cavity, as recited in claim 2 and discussed on page 10 in paragraph 37, for example. That is not possible in Richardson.

Amended claim 1 and the claims dependent upon it are not, therefore, anticipated by Richardson. They are not rendered obvious, either. Withdrawal of the rejections and reconsideration of the claims are respectfully requested.

IV. Rejection Under 35 U.S.C. § 103

Claims 6 and 18, which are dependent on claim 1, have been rejected for allegedly being obvious over Murphy. Since claim 1 is allowable, as discussed above, claims 6 and 18 should be allowable as well.

Claims 11, 12, 22, and 23 were rejected for allegedly being obvious over Murphy in view of Richardson. Since claims 11 and 12, which are dependent on claim 1, and claims 22 and 23, which are dependent on claim 13, are dependent on allowable claims, as discussed above, these claims should be allowable as well.

Withdrawal of the rejection and reconsideration of the claims are respectfully requested.

V. The New Claims

New claim 27, which is dependent on claim 26, further recites that the second member has a surface with markings. New claim 28, which is dependent on claim 27, further recites that the markings define a ruler. These limitations are shown in Fig. 7 and are discussed on page 11, paragraph 38 of the present application, for example. These limitations are not shown or suggested in the cited references.

Entry and consideration of the new claims are respectfully requested.

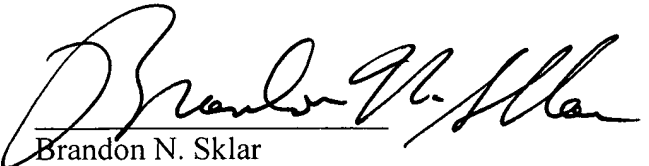
VI. Conclusion

Allowance of the application in light of these Amendments and Remarks is respectfully requested.

Respectfully submitted,
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